

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

Defendant.)	AUG 1 9 2008 TC Aug 19, 2008 MICHAEL W. DOSSINS CLERK, U.S. DISTRICT COURT
JANES POWER SYSTEMS, INC. an Illinois corporation,	FILED
Plaintiff,) v.)	MAGISTRATE JUDGE KEYS
MANUFACTURE CO., LTD, a Chinese corporation, d.b.a. FULL RIVER NORTH AMERICA,	Case No.: 08CV4708 JUDGE HART
FULL RIVER BATTERY)	

COMPLAINT

NOW COMES the plaintiff, FULL RIVER BATTERY MANUFACURE CO., LTD, a corporation, by its attorneys, Marian S. K. Ming & Associates, and complaining of the defendant, JANES POWER SYSTEMS, INC., states:

THE PARTIES

- 1. At all times herein mentioned, the plaintiff, FULL RIVER BATTERY MANUFACURE CO., LTD. ("Full River"), was and is a corporation duly organized under the laws of The People's Republic of China with its principal place of business in Guangzhou, China.
- 2. That Defendant, JANES POWER SYSTEMS, INC. ("Janes Power") was and is a corporation duly organized under the laws of the State of Illinois.

JURISDICTION AND VENUE

3. Full River incorporates the allegations contained in Paragraphs 1 through 2 as if fully rewritten herein.

- 4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §1332, because the citizenship of plaintiff and defendant is completely diverse.
- 5. The amount in controversy exceeds Seventy five thousand (75,000.00) dollars (exclusive of interest and costs).
- 6. Venue is proper pursuant to 28 U.S.C. §1391(a), because a substantial part of the events or omissions giving rise to the claims occurred in this District.

FACTS AND BACKGROUND

- 7. Full River incorporates herein as if fully written all of the allegations contained in paragraphs 1 through 6 above.
- 8. On October 18, 2005, the Defendant issued a Purchase Order to Full River for Nine Hundred Fifty Eight (958) BPI Model ER170FT Front Terminal Telecom Batteries at the rate of \$112.00. See Exhibit A.
- 9. The order was shipped into three containers. The first container contained 320pcs, and was Shipped on Board December 28, 2005. The other two containers contained Six Hundred Thirty Eight (638) pieces, and was Shipped on Board January 21, 2006. See Exhibit B and C.
- 10. On December 28, 2005, the Defendant issued another Purchase Order to Full River for Six Hundred Thirty Six (636) BPI Model ER170FT Front Terminal Telecom Batteries at the rate of \$112.00. See Exhibit D.
- 11. The Second Purchase Order was divided into two containers and shipped on board February 21, 2006, and March 9, 2006. see Exhibit E and F
- 12. At the end of March of 2006, the Full River received the payment \$35840.00 for the shipment of Batteries.
 - 13. All the Ordered Batteries were Received and Accepted by the Defendant.

- 14. Full River has repeatedly requested payment for the remaining balance for delivered goods form the Defendant,
 - 15. Defendant has ignored all requests and refuses to pay for the goods.

COUNT I (Breach of Contract)

- 16. Full River incorporates herein as if fully written all of the allegations contained in paragraphs 1 through 15 above.
- 17. On October 5, 2005, and December 28, 2005, Full River accepted Janes Power's Purchase Orders and extended Janes Power credit on the Purchase.
 - 18. The Batteries were actually delivered to the Defendant.
- 19. Full River performed all of the conditions required of it pursuant to the sales of the Batteries.
 - 20. The defendant received and accepted all the shipments of the Batteries.
- 21. The Defendant Materially breached the terms of the contracts by refusing to pay Full River the Due and owing amount of \$142,688.00.
 - 22. Defendant Materially Breached the contracts without justification or excuse.
- 23. As a direct and proximate result of Defendant's Breach of contract, Full River has suffered and will continue to suffer damages in excess of \$142,688.00

(Promissory Estoppel)

- 24. Full River incorporates herein as if fully written all of the allegations contained in paragraphs 1 through 23 above.
- 25. Defendant unambiguously promised to pay all the amounts due and owing for the Batteries received by Defendant.

- 26. Full River relied upon Defendant's promise to pay and Extended Credit to Defendant.
- 27. Full River's reliance upon Defendant's promise was reasonable
- 28. Full River relied upon Defendant's promise to its detriment.
- 29. As a direct and proximate result of Defendant's failure to keep its promise, Full River has suffered and will continue to suffer damages in excess of \$142,688.00

(Conversion)

- 30. Full River incorporates herein as if fully written all of the allegations contained in paragraphs 1 through 29 above.
 - 31. Defendant intentionally caused Full River to extend credit and to deliver Batteries.
 - 32. Defendant had and has no rights to the Batteries.
- 33. Defendant wrongfully deprived Full River of its right to possession and/or control of the Batteries or the Funds extended.
- 34. As a direct and proximate result of Defendant's wrongful and deliberate actions, Full River has suffered and will continue to suffer damages in excess of \$142,688.00

COUNT IV (Unjust Enrichment)

- 35. Full River incorporates herein as if fully written all of the allegations contained in paragraphs 1 through 34 above.
 - 36. Full River conferred upon the Defendant the benefit of the Batteries and the Credit.
 - 37. Full River is actually entitled to payment for the Batteries or the Batteries.
- 38. Defendant has been unjustly enriched as a result of receiving the Batteries without paying the said Batteries.

WHEREFORE Plaintiff, Full River, prays that this Court enter a judgment in its favor and against Defendant, Janes Power, as follows:

- A. Judgment against Defendant and in Full River's favor in the amount of \$142,688.00 plus post-judgment interest at the Statutory rate of 9%;
- B. For collection costs or attorneys' fees in the amount of \$52,000.00 and Plaintiff's costs of its suit.
- C. Punitive damages against Defendant in the amount of \$80,000.00;
- D. Such other and further relief as this Court dcems just and proper.

Respectfully Submitted,

Marian S. K. Ming

Attorney for Plaintiff

Full River Battery Manufacture Co., LTD

Marian S. K. Ming & Associates One North LaSalle Street, Suite 2205 Chicago, Illinois 60602

(312) $\overline{782} - 8200$

(312) 782 - 7072 (fax)

Email: minglaw@msn.com

Exhibits

Exhibit A	. Janes Power Purchase Order Dated October 18, 2005
Exhibit B	.Bill of Landing Dated December 28, 2005
Exhibit C	. Bill of Landing Dated January 21, 2006
Exhibit D	. Janes Power Purchase Order Dated December 28, 2005
Exhibit E	. Bill of Landing Dated February 21, 2006
Exhibit F	Bill of Landing Dated March 6, 2006

Exhibit A

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Purchase Order

Date:	P.O. No.
10/18/2005) 11346
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	DOUG PERCE 949 N. LARCH		 	
	ELMHURST, IL 60126		 4	i
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C\O JANES POWER SYSTEMS. INC
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PENSACOLA, FI:

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Exhibit B

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JANES POWER SYSTEMS INC.		TOMPANDING AGENT	PMI, NO.	CHB NO.
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ATTW: MS. CINDY		19608 ATTN DOUG PIERCE	G SPRING PA	
TEL:401-941-2694 FAX:401-941-	6340	TEL:610-927-9921 FAX:48	4-214-0196	
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DESTINATION AFTER PRESTIME EXPIRES AS PER CARRIER TARIFF/CONTRACT. SHIPPED ON BOARD DATE: DEC 28,2005
FREIGHT PREPAID

TOTAL CHARGES

TOTAL

Exhibit C

ANGZHOU	EXPORT REFERENCES	L13214 }	SZXWL132140 CUSTOMER RE
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TOTAL CHARGES

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401 E. Jackson Street

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326 CARTON(S)

SN1 5203825

CN: TTAU2172629

SN1: 0203882

"FREIGHT PREPAID"
SHIPPED ON BOARD DATE: JAN 21,2006
IMPORT CONTAINER DEMURRAGE/DETENTION CHARGES WILL APPLY TO CONSIGNEE AT
DESTINATION AFTER PRESTIME EXPIRES AS PER CARRIER TARIFF/CONTEACT.

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Exhibit D



Purchase Order

Date	P.O. No.			
12/28/2005	11437			

138280

Vendor 🕌	1	·	
FULLRIVER NORT	H AMERICA		
DOUG PIERCE 949 N. LARCH			
EEMHURST, IL 601	26	;	
610 927 9921 office			
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Exhibit E



CP SHIPS USA, LLC

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CP SHIPS USA, LLC www.cpships.com

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SHIPPED ON BOARD DATE: FEB 21,2006 IMPORT CONTAINER DEMURRAGE/DETENTION CHARGES WILL APPLY TO CONSIGNEE AT DESTINATION AFTER FREETIME EXPIRES AS PER CARRIER TARIFF/CONTRACT. FREIGHT PREPAIDS

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Exhibit F



CP SHIPS USA, LLC

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NORTH AMERICAN POWER GROUP LLC		tarki jihti i,		Ref. Josephys, apartosia augs Josephys, apartosia augs
323 KENTÜCKY AVE SINKING SPRING PA 19608 ATTN DOUG PIERCE				
TEL 610 927-9921 FAX 484-214-0196				
NOT#Y (complete name and address) FEDEX TRADE NETWORKS	ALSO NOTH A	Y ROUTING & INSTRUCTION MERICAN POWER GROU	vs JP LLC	
49 PAVILION AVE PROVIDENCE, RI 02905	323 KEN	TUCKY AVE SINKING	SPRING	
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CP SHIPS USA, LLC 401 E. Jackson Street



CP SHIPS USA, LLC

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